

Case No. A03-0290 Civil (JWS)

Kim Young Shin

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA for)
the use of POONG LIM/PERT)
JOINT VENTURE,)
Plaintiff,)

vs)

DICK PACIFIC/GHEMM JOINT)
VENTURE, CONTINENTAL CASUALTY)
COMPANY, NATIONAL FIRE)
INSURANCE COMPANY OF)
HARTFORD, SEABOARD SURETY)
COMPANY, and ST. PAUL FIRE)
AND MARINE INSURANCE COMPANY,)
Defendants.)

Case No. A03-0290 Civil (JWS)

DEPOSITION OF DICK PACIFIC/GHEMM JOINT VENTURE

KIM YOUNG SHIN

Taken March 24, 2005
Commencing at 2:00 p.m.

Taken by the Defendants
at
Renaissance Seoul Hotel
Seoul, Korea
676 Yeoksam-dong, Gangnam-gu, Seoul, Korea, 135-915

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<p>1 A-P-P-E-A-R-A-N-C-E-S</p> <p>2</p> <p>3 For Plaintiff:</p> <p>4 OLES, MORRISON, RINKER & BAKER, LLP</p> <p>5 By: Traeger Machetanz</p> <p>6 745 W. Fourth Avenue, Suite 502</p> <p>7 Anchorage, Alaska 99501</p> <p>8 907-258-0106</p> <p>9</p> <p>10 For Defendants:</p> <p>11 DAVISON & DAVISON, INC.</p> <p>12 By: Joseph Pollock</p> <p>13 3351 Arctic Boulevard</p> <p>14 Anchorage, Alaska 99503</p> <p>15 907-363-6555</p> <p>16 and</p> <p>17 ERIK D. EIKE</p> <p>18 707 Richards Street</p> <p>19 Suite 2012</p> <p>20 Honolulu, Hawaii 96813</p> <p>21 808-537-5950</p> <p>22 Interpreters:</p> <p>23 JEONG-WON HONG</p> <p>24 YEONJOO KANG</p> <p>25</p> <p>Also Present:</p> <p>SIN DOO KANG</p> <p>Court Reporter:</p> <p>Barbara Blowers</p> <p>BE IT KNOWN that the aforementioned deposition was taken at the time and place duly noted on the title page, before Barbara Blowers, Registered Professional Reporter and Notary Public within and the state of Alaska.</p>	<p>1 SEOUL, KOREA. MARCH 24, 2005, 2:00 P.M.</p> <p>2</p> <p>3 JEONG-WON HONG,</p> <p>4 the Korean interpreter was sworn on oath</p> <p>5 to interpret English into Korean and</p> <p>6 Korean into English.</p> <p>7</p> <p>8 KIM YOUNG SHIN,</p> <p>9 deponent herein, being sworn on oath,</p> <p>10 was examined and testified as follows:</p> <p>11</p> <p>12 EXAMINATION</p> <p>13</p> <p>14 BY MR. POLLOCK:</p> <p>15 Q Mr. Kim, we've met previously. My name is</p> <p>16 Joe Pollock, and I represent the defendants, Dick</p> <p>17 Pacific/Ghemm and four insurance companies in a</p> <p>18 lawsuit initiated by Poong Lim/PERT Joint Venture.</p> <p>19 The lawsuit is pending in the United States District</p> <p>20 Court for the District of Alaska, located in</p> <p>21 Anchorage, Alaska.</p> <p>22 The lawsuit arises out of a construction</p> <p>23 project known as the Bassett Hospital Replacement</p> <p>24 Project, located at Fort Wainwright, Alaska.</p> <p>25 We have asked you to come here today to</p>
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<p>1 I-N-D-E-X</p> <p>2</p> <p>3 PAGE</p> <p>4 EXAMINATION</p> <p>5 BY MR. POLLOCK 4</p> <p>6</p> <p>7</p> <p>8 EXHIBITS</p> <p>9</p> <p>10 353 - Multiple e-mails 38</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 EXHIBIT <u>3</u></p> <p>22 Page <u>2</u> of <u>4</u> Pages</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 provide sworn, under-oath testimony concerning this</p> <p>2 litigation.</p> <p>3 The testimony that you will provide in this</p> <p>4 deposition today, may be used in the litigation</p> <p>5 pending in Anchorage, Alaska.</p> <p>6 I will be asking you a series of questions,</p> <p>7 and if for some reason you do not understand any</p> <p>8 question, please let me know, and I will try to</p> <p>9 rephrase it in a manner so that you can understand it.</p> <p>10 It is particularly important, given that we are</p> <p>11 translating the questions into Korean.</p> <p>12 During the course of the deposition,</p> <p>13 Mr. Machetanz may have occasion to make objections,</p> <p>14 and he will do that for the record. But unless he</p> <p>15 instructs you otherwise, you can go ahead and answer</p> <p>16 the question if he objects.</p> <p>17 And we've been taking breaks about once an</p> <p>18 hour or so, but in the event that you need to take a</p> <p>19 break before then, just let us know, and we will take</p> <p>20 a break.</p> <p>21 Would you state your name for the record?</p> <p>22 A His name is Kim Young Shin. Family name Kim,</p> <p>23 K-i-m, and first name is Young Y-o-u-n-g, Shin,</p> <p>24 S-h-i-n.</p> <p>25 Q Mr. Kim, have you had your deposition taken</p>

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<p>1 before?</p> <p>2 A No.</p> <p>3 Q Are you represented by an attorney today?</p> <p>4 A Yes.</p> <p>5 Q Mr. Machetanz?</p> <p>6 A Yes.</p> <p>7 Q Outside of discussions with Mr. Machetanz or</p> <p>8 Mr. Butler, have you had any discussions with anyone</p> <p>9 about this deposition before you came here today?</p> <p>10 A No.</p> <p>11 Q Mr. Kim, do you speak English?</p> <p>12 A No, almost not.</p> <p>13 Q I don't speak any Korean.</p> <p>14 Mr. Kim, do you read English?</p> <p>15 A No.</p> <p>16 Q Mr. Kim, were you involved in matters</p> <p>17 concerning the Bassett Hospital Project?</p> <p>18 A He did.</p> <p>19 Q Who is your current employer?</p> <p>20 A He's currently working for Se Jin</p> <p>21 Engineering.</p> <p>22 Q What is your position with Se Jin?</p> <p>23 A He is a representative.</p> <p>24 Q Are you a corporate officer of Se Jin?</p> <p>25 A Yes.</p>	<p>1 companies?</p> <p>2 A Separate and independent.</p> <p>3 Q Okay.</p> <p>4 Mr. Kim, what was your involvement with the</p> <p>5 Bassett Project?</p> <p>6 A He took the leading role in regards to the</p> <p>7 Bassett Project and if a drawing is prepared, he</p> <p>8 reviewed the drawing.</p> <p>9 Q Did Se Jin have a contract with Poong Lim for</p> <p>10 the Bassett Project?</p> <p>11 A Yes.</p> <p>12 Q Was that contract in writing?</p> <p>13 A Yes.</p> <p>14 Q When was that contract first entered into?</p> <p>15 A He does not remember the specific date, but</p> <p>16 actual activities upon the orders of Poong Lim started</p> <p>17 in the middle of February, 2002.</p> <p>18 Q What was the scope or what were the</p> <p>19 obligations that Se Jin assumed as a result of the</p> <p>20 contract existing between Poong Lim and Se Jin?</p> <p>21 A The first order stipulated that Se Jin would</p> <p>22 provide the shop drawings of structural steel with</p> <p>23 regard to the Bassett Project.</p> <p>24 Q How much was the value of this contract?</p> <p>25 A After the original contract was signed, he</p>
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<p>1 Q What is your corporate position?</p> <p>2 A Representative president of the company.</p> <p>3 Q Are you a shareholder or owner of Se Jin?</p> <p>4 A He's the owner of Se Jin Engineering.</p> <p>5 Q Do you own the entire company?</p> <p>6 A Practically owns the entire company, but in</p> <p>7 order to meet the registration requirement we have</p> <p>8 some registered executives.</p> <p>9 Q What percentage of the company do you own?</p> <p>10 A Sixty percent under his name.</p> <p>11 Q Who are the other owners of Se Jin besides</p> <p>12 yourself?</p> <p>13 A His wife and son.</p> <p>14 Q Anyone else?</p> <p>15 A And two relatives.</p> <p>16 Q Does Poong Lim in any way have any ownership</p> <p>17 interest in Se Jin?</p> <p>18 A You mean ownership in trust?</p> <p>19 Q Yes.</p> <p>20 A Poong Lim does not have any executive</p> <p>21 interests in Se Jin.</p> <p>22 Q Are any of the Poong Lim officers, employees</p> <p>23 or shareholders owners of Se Jin?</p> <p>24 A No.</p> <p>25 Q So Se Jin and Poong Lim are separate</p>	<p>1 made two changes to the contract. But what he</p> <p>2 remembers in terms of the contract of the original</p> <p>3 contract was 280 million Korean won.</p> <p>4 Which is approximately \$280,000.</p> <p>5 Q In this original contract, did Se Jin</p> <p>6 obligate itself to provide all the shop drawings for</p> <p>7 structural steel that Poong Lim had obligated itself</p> <p>8 to provide to Dick Pacific?</p> <p>9 A He's not quite sure what the shop drawing of</p> <p>10 the structural steel means, but what he says is the</p> <p>11 original contract included the shop drawings of the</p> <p>12 structural steel that Poong Lim is to provide to Dick</p> <p>13 Pacific.</p> <p>14 Q You mentioned two changes to the contract.</p> <p>15 What do you recall the two changes to the</p> <p>16 contract being?</p> <p>17 A The first change was to add the stair related</p> <p>18 part to the contract.</p> <p>19 And second contract change was to add the</p> <p>20 exterior wall support.</p> <p>21 Q Does he recall the value of the change orders</p> <p>22 for those two respective changes?</p> <p>23 A He does not remember the specific amount for</p> <p>24 each change. But what he remembers is the final</p> <p>25 contract value which was 326 million Korean won.</p>

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<p style="text-align: right;">Page 10</p> <p>1 Q And has Poong Lim paid Se Jin the entire 2 amount of its contract, including change orders? 3 A Yes. 4 Q Did Poong Lim assert any claims against Se 5 Jin arising out of the Bassett Project? 6 A No, not directly yet. 7 Q What about indirectly? 8 A What he means is that he heard over the phone 9 from Poong Lim that the contract party claim of the 10 drawings, but he didn't receive that type of claim 11 from Poong Lim directly. 12 Q Can you repeat that answer? 13 THE INTERPRETER: When he had a phone call 14 with a Poong Lim person, then during the phone 15 conversation he heard that some claims were raised by 16 the other party. But Poong Lim did not raise this 17 type of claims again Se Jin. 18 BY MR. POLLOCK: 19 Q So referring to claims raised by Dick Pacific 20 against Poong Lim? 21 A Yes. Because Dick Pacific is the only party 22 from which Poong Lim will receive claims. 23 Q Does Poong Lim promise to pay Se Jin any 24 money as a result of the outcome of the litigation 25 between Poong Lim and Dick Pacific?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Is Se Jin strictly an engineering company or 2 does it provide construction services? 3 A It's solely an engineering company. 4 Q Does Se Jin have a particular focus, say 5 mechanical, electrical, structural, geotechnical? 6 What specialty does Se Jin have? 7 A Se Jin is a structural company, so prepares 8 the shop drawings and also the base drawings for the 9 shop drawings. 10 Q Does Se Jin provide architectural services? 11 A When you say architectural services, does 12 that mean preparing architectural drawings? 13 Q Yes. 14 A No. 15 Q Does Se Jin do any civil engineering? 16 A No. What they focus on is only the 17 structural steel related area. 18 Q What were the dollar values of Se Jin's gross 19 sales for 2002 and 2003? 20 A In 2002, what he remembers is that the sales 21 were ranged from 700 billion to -- 700 million to 22 750 million won and in 2003 the sales were 23 approximately 800 million Korean won. 24 Q Which would be 800,000?? 25 THE INTERPRETER: Approximately.</p>
<p style="text-align: right;">Page 11</p> <p>1 A Yes. 2 Q What is your understanding concerning any 3 agreements or arrangements with Poong Lim regarding 4 the outcome of the litigation between Poong Lim and 5 Dick Pacific? 6 A Can you elaborate more on your question? 7 Q Has Poong Lim promised to pay Se Jin money in 8 the future if it recovers from Dick Pacific? 9 A Poong Lim didn't say a specific amount, but 10 what Poong Lim did say is that because Se Jin, some 11 manhours are spent on the project, they will make some 12 payments after the litigation. 13 Q Has Poong Lim promised to pay any specific 14 amount to Se Jin? 15 A Not a specific amount. 16 Q After the Bassett Project, did Se Jin and 17 Poong Lim contract on any other projects? 18 A After the Bassett Project, Poong Lim Industry 19 stopped fabricating structural steel product. 20 So, no, currently Poong Lim is working on 21 steel bridges only. 22 Q What type of services does Se Jin Engineering 23 provide? 24 A He's not quite sure what services means? 25 Businesses you mean?</p>	<p style="text-align: right;">Page 13</p> <p>1 BY MR. POLLOCK: 2 Q How many licensed professional engineers does 3 Se Jin currently have on staff? 4 A You mean certified PE's? 5 Q Yes. 6 A We have two PE's and also the employees of Se 7 Jin has some other types of certifications. 8 Q Did Se Jin have two PE's on staff in 2002 and 9 2003? 10 A From what he remembers, we had more PE's than 11 now. 12 Q During 2002 and 2003, does he have a 13 recollection of the number of employees that Se Jin 14 employed? 15 A On average, we have 20 employees, around. 16 Q So for 2002, would the Bassett Project have 17 comprised about 50 percent of your workload? 18 A More than 50 percent. 19 Q How about 2003, approximately what percentage 20 of his firm's resources were devoted to the Bassett 21 Project in 2003? 22 A What he can say is that the members who 23 worked on the Bassett Project in 2002 continued to do 24 their work on Bassett Project until April. And the 25 number of exact persons may change either plus or by</p>